

REMARKS

Applicant respectfully requests reconsideration of the application in view of the foregoing amendments and the following remarks.

Claims 21-37 are currently pending in the application.

All pending claims have been amended.

Claims 1-20 and 38-43 have been canceled without prejudice.

Regarding the Information Disclosure Statement

Applicant appreciates that the Information Disclosure Statement references have been clearly submitted.

Regarding Claim Interpretation

Applicant has amended the term "cartridge" to be more descriptive such that it is a "companion body fluid analyzing cartridge." Such a cartridge is used with a chemical analysis cartridge as discussed in paragraph 6 of the current application.

Applicant has further amended the claims such that additional structural requirements are claimed. Applicant appreciates the Examiner's discussion of "claim interpretation."

Regarding the § 102 Rejection

Claims 21-23, 26-34, 36, and 38-43 were rejected under 35 USC § 102(b) for being anticipated by Lipshutz et al (U.S. Patent No. 5,856,174). Applicant respectfully points out that Lipshutz does not anticipate or teach a companion body fluid analyzing cartridge that is mated with an associated sensing cartridge. Furthermore, Litpshutz does not teach or anticipate using a fluid reservoir in the companion body fluid analyzing cartridge "containing a fluid that is to be provided to said associated sensing cartridge" as well as being connected to "receive waste materials from the associated sensing cartridge."

Independent claim 21 recites a companion body fluid analyzing cartridge comprising "a base element mated with an associated sensing cartridge.", "a port, on the base element for fluid communication with the companion body fluid analyzing cartridge; and a fluid reservoir in fluid communication with said port, said fluid reservoir containing a fluid that is provided to said associated sensing cartridge, said fluid reservoir also being connected to receive waste materials from said associated sensing cartridge." Furthermore, claim 21 recites that the "companion body fluid analyzing cartridge [is] a modular sub-component of said associated sensing cartridge." Applicant respectfully points out that Lipshutz does not teach or anticipate a dual use for a fluid reservoir, on a companion body fluid analyzing cartridge, that provides a fluid to an associated sensing cartridge and is connected to receive waste materials from said associated sensing cartridge. As such, Applicant respectfully requests that the § 102 rejection be withdrawn and submits that claim 21 is now ready for allowance.

Claims 22-23 and 26-33 are not anticipated for at least the same reasons as discussed above with respect to claim 21. As such, Applicant respectfully requests that this § 102 rejection be withdrawn and that these claims be moved toward allowance.

Claim 34 has been amended to be an independent claim. Claim 34 recites "a companion body fluid analyzing cartridge comprising a reagent storage system and a waste retrieval system such that the reagent storage system and the waste retrieval system share at least one fluid reservoir." Applicant respectfully submits that Lipshutz does not teach or anticipate the sharing of at least one fluid reservoir by two distinctly different systems on a companion body fluid analyzing cartridge. As such, Applicant respectfully requests that the § 102 rejection be withdrawn and submits that claim 34 is ready for allowance.

Claim 36 has also been amended to be an independent claim and recites, among other things, "a companion body fluid analyzing cartridge comprising an assay element preparation

system and a waste retrieval system, such that such assay element preparation system and said waste retrieval system share at least one fluid reservoir." As discussed above, Lipshutz does not teach or anticipate the sharing of at least one fluid reservoir by two separate systems on a companion body fluid analyzing cartridge. Applicant respectfully requests that the § 102 rejection for claim 36 be withdrawn and submits that claim 36 is also ready for allowance.

Claims 38-43 have been canceled without prejudice thereby rendering the § 102 rejection to these claims moot.

Regarding the § 103 Rejection

Claims 24, 25, 35 and 37 were rejected under 35 USC § 103(a) for being rendered obvious by Lipshutz et al in view of Leiner et al (U.S. Patent No. 6,037,178).

As discussed above, Lipshutz does not teach, anticipate, allude to or render obvious the use of one fluid reservoir in a companion body fluid analyzing cartridge by more than one fluid system. Furthermore, Leiner does not remedy the inadequacies of Lipshutz.

With respect to claims 24 and 25, these claims are either directly or indirectly dependent upon claim 21 and are therefore not rendered obvious by Lipshutz in view of Leiner because none of the cited references teach, allude to or render obvious a "fluid reservoir also being connected to receive waste materials from said associated sensing cartridge." As such, Applicant respectfully requests that the § 103 rejection be withdrawn and that claims 24 and 25 are ready for allowance.

With respect to claim 35, this claim has been amended to be an independent claim which recites, among other things, "a waste retrieval system such that said calibration fluid system and said waste retrieval system share at least one fluid reservoir" and "wherein the fluid reservoir is on a companion body fluid analyzing cartridge." As such, Applicant

respectfully submits that the cited art does not teach, allude to or render obvious claim 35 and respectfully requests that the § 103 rejection be withdrawn.

Claim 37 has also been amended to be an independent claim. Claim 37 recites, among other things, "a waste retrieval system such that said carrier fluid system and said waste retrieval system share at least one fluid reservoir" as well as requiring reciting that the fluid reservoir is on said companion body fluid analyzing cartridge. As such, Applicant respectfully submits that claim 37 has not taught, alluded to or rendered obvious by the cited art and respectfully requests that this § 103 rejection be withdrawn.

In view of the above amendments, Applicant submits the pending application is in condition for allowance and respectfully requests that a Notice of Allowance is forthcoming.

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Respectfully submitted

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